UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/834,500	04/12/2001	Mike Cristofalo	5217.00	5803

20686	7590	05/04/2006

DORSEY & WHITNEY, LLP
INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET
SUITE 4700
DENVER, CO 80202-5647

EXAMINER
LASTRA, DANIEL

ART UNIT	PAPER NUMBER
3622	

DATE MAILED: 05/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

		Application No.	Applicant(s)
		09/834,500	CRISTOFALO ET AL.
Office Action Summary		Examiner	Art Unit
		DANIEL LASTRA	3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 February 2006*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-34,52-78 and 195-200* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-34,52-78 and 195-200* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *12/21/05*.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

1.   Claims 1-34, 52-78 and 195-200 have been examined. Application 09/834,500

(SYSTEM AND METHOD FOR TARGETING OBJECT ORIENTED AUDIO AND VIDEO

CONTENT TO USERS) has a filing date 04/12/2001.

Response to Amendment

2.   In response to Non Final Rejection filed 11/10/2005, the Applicant filed a

Request for reconsideration on 02/10/2006.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out
> and distinctly claiming the subject matter which the applicant regards as his
> invention.

Claims 1, 17, 26, 52, 66 and 73 are rejected under 35 U.S.C. 112, second

paragraph, as being indefinite for failing to particularly point out and distinctly claim the

subject matter which applicant regards as the invention. The claims recite "wherein the

targeted media object is part of a program composition comprising multiple media

objects presented simultaneously and the targeted media object is targeted separately

from at least one other media object in the composition. The claims are indefinite

because said targeted media object is targeted separately from other media objects but

also presented simultaneously with said other media objects. For purpose of art

rejection the Examiner would interpret said limitation as meaning targeting a plurality of

products or services simultaneously to a user based upon said user's profile.

4.   Claims 1, 17, 26, 52, 66 and 73 recite the limitation "targeted media object".

There is insufficient antecedent basis for this limitation in the claims. For example, in

claim 1, "target media object" on line 8 is the "media object" on line 1, the same as the

"media object" on lines 3 and 9. Correction is required.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed
> or described as set forth in section 102 of this title, if the differences between the
> subject matter sought to be patented and the prior art are such that the subject
> matter as a whole would have been obvious at the time the invention was made
> to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was
> made.

Claims 1-34, 52-57, 61-78 and 195-200 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Picco et al (U.S. 6,029,045) in view of Libman (US

6,076,0722).

As per claims 1, 17, 26, 52, 66 and 73, Picco teaches:

A system for transmitting a media object containing content targeted to a user

based upon a user profile comprising:

an input port for receiving a media object containing content targeted to a user

profile (see column 13, lines 35-55),

a transmitting system, connected to the input port, which transmits the media

object in a programming signal to a user associated with the user profile (see column

14, lines 1-17);

whereupon receiving the media object from the input port, the transmitting

system determines the user profile targeted by the media object, identifies a user

associated with the user profile, and transmits the media object to the identified user (see column 1, lines 49-59; column 6, lines 25-37),

Picco fails to teach wherein the targeted media object is part of a program composition comprising multiple media objects presented simultaneously and the targeted media object is targeted separately from at least one other media object in the composition. However, Libman teaches a system that targets different products or services to a user based upon the user's profile and the simultaneous display of said products or services to the user's client device (see figure 8). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Picco would be motivated to target a media object (i.e. product and/or carrier) separately from at least other media objects (i.e. multiple products and/or carriers) in a data stream composition in order to maximize profits, as Picco would bill advertisers for reaching viewers who are more likely to be interested in their product and/or service.

As per claims 2, 18, 29, 62 and 67, Picco teaches:

The system of claim 1, wherein the user profile is based upon information selected from the group consisting of: response by a user to a survey, demographic information, user viewing habits, selection of a media object by a user during a programming signal, purchase behavior, a compilation of viewing habits from at least two users, statistical information, and regional information (see column 2, lines 55-58; figure 4, item 152; column 7, lines 5-32).

As per claims 3 and 19, Picco teaches:

The system of claim 2, wherein the user profile is generated by a user profiling

system located with the transmitting system (see figure 4, item 150, 152).

As per claims 4, 20, 30, 53 and 70, Picco teaches:

The system of claim 1, wherein the programming signal further comprises a

signal in a form selected from the group consisting of: a video signal, an audio signal, a

combined audio and video signal, animation, text, graphics, multimedia, slow frame

video, video stills, sequence of individual frames, virtual reality, live, pre-recorded,

natural, synthetic, combined natural and synthetic, and computer generated content

(see column 3, lines 1-14; column 13, lines 19-23).

As per claims 5 and 21, Picco teaches:

The system of claim 1, wherein the programming signal is transmitted by the

transmitting system to a receiving system via a transmission medium selected from the

group consisting of: broadcast, microwave, millimeter wave, wireless, wireline, satellite,

cable, and fiber optics (see column 1, lines 10-13, column 14, lines 58-67).

As per claims 6, 31 and 55, Picco teaches:

The system of claim 1, wherein the media object is received by the input port

over a transmission medium selected from the group consisting of: broadcast, wireless,

wireline, microwave, millimeter wave, satellite, cable, and fiber optics (see column 14,

lines 58-67).

As per claims 7 and 75, Picco teaches:

The system of claim 1, wherein the transmitting system further comprises a

wireless system selected from the group consisting of: television broadcasting system,

radio broadcasting system, microwave systems, millimeter wave systems, infrared systems, wireless telecommunications system, and a satellite broadcasting system (see column 14, lines 1-17).

As per claim 8, Picco teaches:

The system of claim 1, wherein the transmitting system further comprises a wired system utilizing a communications medium selected from the group consisting of: cable, coaxial cable, twisted pair cable, fiber-optic cable, telephone cable, and closed circuit cable (see column 7, lines 10-16).

As per claims 9, 22, 32, 65 and 71, Picco teaches:

The system of claim 1, wherein the input port receives the media object via a stand-alone system from a data storage medium selected from the group consisting of: compact disc, digital versatile disc, video tape, gaming cartridge, memory stick, magnetic storage medium, optical storage medium, Flash memory, random access memory, and read only memory (see figure 8).

As per claims 10 and 68, Picco teaches:

The system of claim 1, wherein the transmitting system transmits the programming signal to the user via at least one network selected from the group consisting of: the Internet, intranet, private network, wired network, ATM network, wireless network, wide area network, local area network, and a public network (see column 14, lines 58-67).

As per claim 11, Picco teaches:

The system of claim 10, wherein the programming signal is streamed to the user over the network (see column 14, lines 1-17).

As per claims 12, 23, 27, 54, 72, 74 and 78, Picco teaches:

The system of claim 1, wherein the media object is transmitted in a format selected from the group consisting of: MPEG-1, MPEG-2, MPEG-4, MPEG-7, JPEG, motion JPEG, GIFs, Quicklime, ActiveMovie, DVI, and Indeo (see column 2, lines 1-27; column 11, lines 49-67).

As per claim 13, Picco teaches:

The system of claim 1, wherein the transmitting system utilizes a transmission protocol selected from the group consisting of: RTP, UDP, TCP/IP, and ATM to transmit the programming signal (see column 14, lines 58-67).

As per claims 14, 24, 33, 56 and 76, Picco teaches:

The system of claim 1, wherein the programming signal includes at least one media object containing content related to at least one program type selected from the group consisting of: news program, sports program, virtual reality program, entertainment program, music video, game show program, motion picture program, video program, live program, audio program, polling question, educational program, non-commercial program, and a pre-recorded program (see column 6, lines 1-9).

As per claims 15, 25, 34, 57 and 77, Picco teaches:

The system of claim 1, wherein the programming signal includes at least one media object containing advertising related content (see column 6, lines 16-41).

As per claim 16, Picco teaches:

The system of claim 1, wherein the transmitting system receives a first media object and second media object from the input port, combines the first media object and the second media object into a composite programming signal and transmits the composite programming signal, whereupon receiving the composite programming signal a receiving system selects one of the first media object and the second media object based upon the user profile (see column 13, lines 1-55).

As per claim 28, Picco teaches:

The system of claim 26, wherein a first media object and a second media object both contain content targeted to a first user profile (see column 13, lines 1-55).

As per claim 61, Picco teaches:

The method of claim 52, wherein the step of identifying a user profile targeted by the media object further comprises:

obtaining user information; and compiling the user information into the user profile (see column 13, lines 40-55; figure 4, item 152).

As per claim 63, Picco teaches:

The method of claim 52, wherein the step of identifying at least one user associated with the user profile is accomplished by a receiving system (see column 13, lines 35-60).

As per claim 64, Picco teaches:

The method of claim 52, wherein the method further comprises storing the media object in a data storage device and retrieving the media object from the data storage

device at a designated time for transmitting the media object in the programming signal

to the user (see column 6, lines 57-67)

As per claim 69, Picco teaches:

The method of claim 66, wherein the method further comprises obtaining the

user profile from a user profiling system in communication with a system selected from

the group consisting of: the transmitting system, and a system for receiving the

programming signal transmitted by the transmitting system (see figure 4).

As per claims 195-200, Picco teaches:

The method of claim 1, wherein the media object is transmitted in MPEG-4

format (see column 11, line 49 – column 12, line 6).

6.   Claims 58-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Picco et al (U.S. 6,029,045) in view of Libman (US 6,076,072) and further in view of

Olivier (U.S. 6,480,885).

As per claims 58-60, Picco fails to teach:

The method of claim 52, wherein the method further comprises:

establishing a chat interface between a user and a system transmitting the media

object, wherein the chat interface utilizes at least one media object to facilitate

communications. However, Olivier teaches a system that allows users to be targeted

with customized messages via e-mail, chat or instant messaging based upon the users'

profiles (see column 3, lines 5-32). Therefore, it would have been obvious to a person of

ordinary skill in the art at the time the application was made, to know that Picco would

use the Olivieri system to target messages to users based upon the users' profiles. This

feature would allow users of the <u>Picco</u> system to select the messages that the users would like to receive.

Response to Arguments

7. Applicant's arguments filed 02/10/2006 have been fully considered but they are not persuasive. The Applicant argues that the Examiner misunderstand the claim invention since the Applicant's specification explain how one object in a program composition is represented separately from another object in the composition. The Examiner answers that claim 1 does not recite that each of the media objects can be targeted separately to a user allowing for a different combination of media objects to be played on different users system without having to provide completely different program compositions for each type of user. The Applicant needs to include said limitation in the claims for the Examiner to consider it. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).
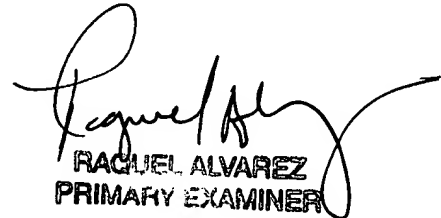
Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W. STAMBER can be reached on 571-272-6724. The official Fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daniel Lastra

April 26, 2006

RAQUEL ALVAREZ

PRIMARY EXAMINER